

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND
RECYCLING, LLC,

Plaintiff,

v.

CEMEX PUERTO RICO, et al.,

Defendants.

Civil No. 07-1658 (JAF)

OPINION AND ORDER

Plaintiff American Waste Management and Recycling, LLC, brings the present action against Defendants CEMEX Puerto Rico, Canopy Ecoterra, and XYZ Insurance Companies, alleging state claims for breach of contract and tortious interference with contract. Docket Document No. 1.

On August 23, 2007, Defendant Canopy Ecoterra brought this motion to dismiss Plaintiff's diversity action for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). Docket Document No. 17-1. Plaintiff opposed on September 12, 2007, Docket Document No. 26-1, Defendant replied on September 24, 2007, Docket Document No. 39, and Plaintiff sur-replied on October 2, 2007, Docket Document No. 51-1.

Defendant asserts that we must dismiss Plaintiff's suit under the Puerto Rico General Corporations Act of 1995, 14 L.P.R.A. §§ 2601 et seq., which prevents a foreign corporation from suing in state

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1 court until it obtains a certificate of authorization to do business
2 in Puerto Rico. Docket Document No. 17-1 (citing 14 L.P.R.A.
3 § 3163(a) (2000) and Sumitomo Real Estate Sales (N.Y.), Inc. v.
4 Quantum Dev. Corp., 434 F. Supp. 2d 93, 95 (D.P.R. 2006) (applying
5 § 3163(a) in federal court under the doctrine of Erie R.R. Co. v.
6 Tompkins, 304 U.S. 64 (1938)).

7 At the time Plaintiff filed its complaint, it had not yet
8 obtained a certificate of authorization to do business in Puerto
9 Rico. Docket Document No. 26-1. However, Plaintiff obtained a
10 certificate on September 11, 2007. Docket Document No. 51-2. Because
11 Plaintiff is now authorized to bring suit in state court, Defendant's
12 motion to dismiss is moot. See § 3163(a).

13 In accordance with the foregoing, we **DENY** Defendants' motion to
14 dismiss, Docket Document No. 17-1.

15 **IT IS SO ORDERED.**

16 San Juan, Puerto Rico, this 17th day of October, 2007.

17 s/José Antonio Fusté
18 JOSE ANTONIO FUSTE
19 Chief U. S. District Judge